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Supreme Court, U.S.
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No. 05-560

IN THE SUPREME COURT OF THE UNITED STATES

STEPHEN J. DeBIASSE,
Petitioner,

v.

CHEVY CHASE BANK CORPORATION, MORRIS COUNTY, NEW JERSEY AND MORRIS COUNTY, NEW JERSEY SHERIFF'S OFFICE
Respondents.

On Appeal From The United States Court of Appeals
For The Third Circuit
(3rd Circuit No.: 05-2452)

Circuit Court Judges: Alito, McKee and Ambro

RESPONDENT'S BRIEF IN OPPOSITION

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LIST OF PARTIES

All Parties appear in the caption of the case on the Cover page.

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COUNTER-STATEMENT OF FACTS

On or about January 7, 2003 Petitioner purchased property located at 106 Shunpike Road, Madison, New Jersey. In order to effectuate the purchase, Petitioner executed a standard mortgage contract with Chevy Chase Bank, FSB, Respondent, whereby Chevy Chase Bank would lend Petitioner a sum certain in exchange for a mortgage on the property. Thereafter Petitioner breached the terms and conditions of the mortgage.

On February 23, 2004, Chevy Chase Bank filed an action alleging that Petitioner breached the terms of the contract, and, therefore, the Bank was entitled to foreclose on the property pursuant to N.J.S.A. 2A:50-53, the New Jersey Fair Foreclosure Act.

On January 25, 2005, the Honorable Kenneth C. MacKenzie, P.J.Ch., entered default judgment against the

Petitioner.

Petitioner took title to the property subject to the mortgage which he voluntarily executed. Upon breaching the terms and conditions of the contract, Petitioner drafted self-serving documents which he claims are "Land Patents." (App. 7). It is Petitioner's claim that the "Land Patents" that he drafted, executed, filed and posted in the Morris County Administration Building, provide him with title to the property free and clear of any liens or encumbrances.

Petitioner has presented no information showing that Chevy Chase Bank agreed to discharge the mortgage based upon the "Land Patent," nor has it been shown that Chevy Chase Bank agreed to change or modify any of the terms and conditions of the mortgage contract based upon the self-serving documents.

Upon Chevy Chase Bank instituting foreclosure

proceedings, the matter was scheduled for a Sheriff's Sale on April 11, 2005. N.J.S.A. 2A:17-29 et seq. The Sheriff's Sale was adjourned pursuant to Petitioner's request. Ultimately, the Sheriff's Sale was adjourned indefinitely due to Petitioner's filing for bankruptcy and the automatic stay provision of the Bankruptcy Code. 11 U.S.C. § 362.

REASONS FOR DENYING THE WRIT OF CERTIORARI

POINT I

THIS COURT HAS NO JURISDICTION OVER ANY OF THE ISSUES PRESENT IN THIS CASE; THEREFORE, A WRIT OF CERTIORARI SHOULD NOT BE ISSUED.

"Federal courts are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute, which is not to be expanded by judicial decree. It is to be presumed that a cause lies outside this limited jurisdiction . . . ." Kokkonen v Guardian Life Ins. Co. of America, 511 U.S. 375, 377 (1994). Petitioner presents no legal support for the proposition that a breach of a mortgage contract provides the federal court with jurisdiction over this matter.

This matter does not present a federal question. The issue of whether a "Land Patent" draft and filed with illicit self-

serving intent can discharge a mortgage is an issue of contract law, which is governed by state law, not federal law, nor by the United States Constitution or International Treaty. Thomas Group, Inc. v. Wharton Senior Citizen Housing, 163 N.J. 507, 522 (2000); e.g., White v. Burnley, 61 U.S. (20 How.) 235 (1857); Beavregard v. New Orleans, 59 U.S. (18 How.) 497 (1855). There are no constitutional protections from state foreclosure procedures. See, Hilgeford v. People's Bank, 776 F.2d 176, 179 (7th Cir. 1985). Nor are there any federal statutes which govern foreclosure procedures. Id. Accordingly, there is no federal question that has been presented to this Court.

Additionally, there is not complete diversity of citizenship among the parties upon which this Court can base jurisdiction. See, 29 U.S.C. §§ 1331, 1332. Petitioner is a New Jersey Citizen who owns property situated in New Jersey. The County of Morris and the Morris County Sheriff's Office are

each New Jersey entities over which the state court has jurisdiction. Thus, there is no diversity of jurisdiction among the parties which provides this Court with jurisdiction.

The Federal District Court and the Third Circuit Court of Appeals both determined that the federal courts do not have jurisdiction over this matter. (App. 1, 2). There is no basis to reverse these determinations. As such, it is respectfully submitted that this Court should deny Petitioner's petition for a writ of certiorari.

POINT-II

DISPOSITION OF PETITIONER'S PROPERTY IS NOT GOVERNED BY FEDERAL LAW NOR BY INTERNATIONAL TREATY; RATHER IT IS GOVERNED BY VALID STATE LAW; THEREFORE, THERE IS NO QUESTION PRESENTED FOR THIS COURT TO REVIEW.

Petitioner argues that the disposition of his property is governed by the Treaty of Paris. It is further argued that the Treaty of Paris prohibits the State of New Jersey and/or the Morris County Sheriff's Office from foreclosing on the property. Petitioner errs in making such claims.

There is no dispute in this case that Petitioner initially purchased the property through execution of a valid mortgage. The mortgage issued through Respondent, Chevy Chase Bank, required that Petitioner make periodic payments in an amount certain for a specified number of years. There has been no